

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Nicole Zellner,

Plaintiff,

v.

ORDER

Civil No. 14-3287 ADM/FLN

Wells Fargo Bank, Rushmore Loan
Management and U.S. Bank,

Defendants.

John R. Zellner, Jr., on behalf of Plaintiff Nicole Zellner, pro se.

Ashley M. DeMinck, Esq., Hinshaw & Culbertson LLP, Minneapolis, MN, on behalf of
Defendant Wells Fargo Bank.

Christina M. Snow, Esq., Wilford, Geske & Cook, PA, Woodbury, MN, on behalf of Defendants
Rushmore Loan Management and U.S. Bank.

On May 5, 2015, the undersigned United States District Judge heard oral argument on two motions: (1) Defendant Wells Fargo Bank's ("Wells Fargo") Motion for Judgment on the Pleadings [Docket No. 18]; and (2) Defendants Rushmore Loan Management and U.S. Bank's ("Rushmore") Motion for Judgment on the Pleadings [Docket No. 30]. Plaintiff Nicole Zellner ("Zellner") did not appear at the hearing on Defendants' Motions. Instead, her husband, John R. Zellner, Jr., appeared on her behalf. For the reasons stated on the record at the hearing, Zellner's claims in this action fail as a matter of law and Zellner's request for an extension and an opportunity to amend her Complaint is denied.

The Court provided Zellner ample opportunity to defend the present Motions. In September 2014, Magistrate Judge Franklin L. Noel referred Zellner to the Pro Se Project [Docket No. 7]. The Pro Se Project staff attorney stated that despite attempts to contact Zellner upon her referral, Zellner did not respond until February 5, 2015. Defendants each filed Motions for

Judgment on the Pleadings, and a hearing was scheduled for April 15, 2015. Zellner filed no responsive memoranda pertaining to the instant motions. On March 12, 2015, Zellner requested that the hearing be postponed so that she could consult with a Pro Se Project attorney [Docket No. 37]. The Court granted Zellner's request and rescheduled the hearing for May 5, 2015 [Docket No. 40]. According to the Pro Se Project staff attorney, Zellner remained largely unresponsive to a volunteer attorney's efforts to coordinate and work with her to prepare for the May 5, 2015 motions hearing. Given this lack of diligence, no further extensions are warranted.

Based upon the foregoing, all the files, records, and proceedings herein, and for the reasons stated on the record at the conclusion of oral argument, **IT IS HEREBY ORDERED** that Wells Fargo's Motion for Judgment on the Pleadings [Docket No. 18] and Rushmore's Motion for Judgment on the Pleadings [Docket No. 30] are **GRANTED** and Plaintiff Nicole Zellner's Complaint is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: May 5, 2015.